

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

STATE OF OKLAHOMA, <i>et al.</i> ,)	
)	
<i>Plaintiffs,</i>)	
)	
v.)	Case No. 05-cv-329-GKF-SH
)	
TYSON FOODS, INC., <i>et al.</i> ,)	
)	
<i>Defendants.</i>)	

**THE STATE OF OKLAHOMA’S RESPONSE IN OPPOSITION
TO “DEFENDANTS’ JOINT MOTION FOR LEAVE TO FILE
NOTICE OF SUPPLEMENTAL AUTHORITY”**

Defendants’ Joint Motion for Leave to File Notice of Supplemental Authority (Doc. No. 3156) should be denied as *City and County of San Francisco v. EPA*, No. 23-753 (U.S. Mar. 4, 2025), is neither relevant nor helpful to deciding the issues before this Court.

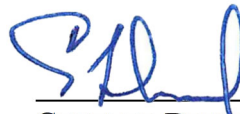
Defendants acknowledge that supplemental authority should be “relevant” and “helpful.” *See* Def. Motion at 1-2 (citing *Jacobs v. Guardian Life Ins. Co. of Am.*, 730 F. Supp. 2d 830, 844 (N.D. Ill. 2010)). The proposed supplemental authority is neither. Specifically, *San Francisco* is a point source pollution permitting case arising under the Clean Water Act (“CWA”). In contrast, as this Court has previously recognized, the State’s case here is a nonpoint source pollution case which in no way implicates the CWA’s point source permitting provisions. *See* Doc. No. 2979 at COL No. 37 (“At issue here are *nonpoint* source discharges. In *American Wildlands v. Browner*, 260 F.3d 1192, 1193-94 (10th Cir. 2001), the Tenth Circuit recognized that nonpoint source discharges are not defined by the Clean Water Act and that ‘[r]ather than vest the EPA with authority to control nonpoint sources through a permitting process, Congress

required states to develop water quality standards for intrastate waters.’ *Id.*”) (emphasis in original).¹ *San Francisco* is thus entirely off-point.

Should the Court grant Defendants’ motion for leave, the State should be granted leave to file a substantive response to Defendants’ proposed filing. Defendants have indicated in their motion for leave that they have no objection to the State filing a substantive response. *See* Def. Motion at 4.

March 31, 2025

Respectfully Submitted,



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¹ Underscoring its irrelevancy to the issues to be decided by this Court, regulation of nonpoint source pollution is not even mentioned in *San Francisco*.

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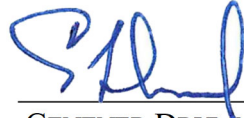
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CERTIFICATE OF SERVICE

I hereby certify that on this 31st day of March, 2025, I electronically transmitted the foregoing document to the Clerk of Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to the ECF registrants with entries of appearance filed of record.

A handwritten signature in blue ink, appearing to read 'Gentner Drummond', is written over a horizontal line.

GENTNER DRUMMOND